

REMARKS

In the Office action mailed October 22, 2004 ("the Office Action") the Examiner rejected claims 1-8. This reply does not amend the claims. Therefore claims 1-8 are pending and under consideration.

I. Response to objection to the specification

The Examiner objected to the specification for not having a drawing. This reply addresses this issue by adding a drawing. The drawing does not add new matter because it simply illustrates the subject matter of the application according to the embodiments described in the section entitled "SUMMARY OF THE INVENTION." All the elements and relationships shown in the drawing are taught in the specification.

II. Response to rejections based primarily on U.S. Patent Application Publication No. 2003/0219113

The Examiner rejected claims 1, 2, 5, 6, and 8 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0219113 ("Bershad"). The Examiner also rejected claims 3, 4, and 7 under 35 U.S.C. §103(a) as being unpatentable under Bershad in view of U.S. Patent No. 5,732,134 ("Sih"). These rejections are respectfully traversed.

To qualify as prior art under 35 U.S.C. §102(e), a published application for patent must be filed before the invention by the applicant. 35 U.S.C. §102(e). Additionally, under 37 C.F.R. §1.131, "the inventor of the subject matter of the rejected claim . . . may submit an appropriate . . . declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based." See 37 C.F.R. §1.131("Rule 131") and MPEP §715 ("Swearing Back of Reference").

Included with this reply is a declaration under Rule 1.131. The declaration includes an invention report in German and a translation of the invention report. Please note that the inventor found a typographical error on page six of the translation and corrected it by hand.

The invention report establishes invention of the subject matter of the rejected claims. The declaration establishes that the invention report was completed prior to the effective date of Bershad. Together, the invention report and the proof of its completion prior to the effective date of Bershad establish invention of the subject matter of the rejected claim prior to the effective date of Bershad. Additionally, the declaration establishes that the Inventor exercised due diligence based on the filing of a patent application in Germany. Therefore claims 1, 2, 5, 6, and

8 are patentable over Bershad at least because Bershad does not qualify as prior art under 35 U.S.C. §102.

Regarding the rejection of claims 3, 4, and 7, a rejection under §103(a) must be supported by a reference that qualifies as prior art under §102. See MPEP §2141.01(I) and §715.02(I) ("Applicant may overcome a 35 U.S.C. 103 rejection based on a combination of references by showing completion of the invention by applicant prior to the effective date of any of the references"). As previously explained, Bershad does not qualify as prior art under §102. Therefore, claims 3, 4, and 7 are patentable over Bershad in view of Sih at least because Bershad does not qualify as prior art.

III. Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS:

This reply adds a sheet of drawings to the application. The new sheet includes a figure that is a schematic view of a line matching device according to an embodiment of the present invention.

Attachment: New Sheet